

<i>In Re:</i>	Laundry Investors, LLC	)	
	Personal Property Account No. P-183143 T-F	)	Shelby County
	Tax year 2006	)	

The subject property is presently valued for 2006 tax purposes as follows:

APPRAISAL	ASSESSMENT
\$172,800	\$51,840

On July 31, 2007, the State Board of Equalization ("State Board") received an appeal by Laundry Investors, LLC ("Laundry Investors").<sup>1</sup> John Zelinka, Counsel to Shelby County Assessor of Property Rita Clark, filed a MOTION TO DISMISS the appeal on March 7, 2008.

The undersigned administrative judge conducted a hearing of this matter on March 18, 2008 in Memphis. Laundry Investors was represented by its president, T. Michael Leake, and co-owner Carol Leake. Mr. Zelinka, accompanied by Audit Manager Eric Beaupre, CPA, appeared on the Assessor's behalf.

The property in question is used (or held for use) in a coin-operated laundry originally known as “The Corner Wash,” located at 1651 Lamar in Memphis. On August 26, 2005, Mr. and Ms. Leake entered into a contract to sell this business to Nedra Brown for \$32,000. Under the terms of the agreement, Ms. Brown assumed Laundry Investors’ lease on the building as well as other liabilities of the seller – including the obligation to make payments on an “Equipment Note” held by Alliance Laundry Systems LLC (“Alliance”) with an outstanding balance of nearly \$62,000.<sup>2</sup> The contract further stipulated that, in the event of a default by the buyer, the business “will revert back to the Seller.”

As the new owner, Ms. Brown renamed this laundry “Nedra’s Wash House.” In 2006, she failed to file the required tangible personal property schedule with the Assessor’s office by the March 1 deadline. Consequently, pursuant to Tenn. Code Ann. section 67-5-903(c), the Assessor made a “forced” assessment on this account in the amount shown above.<sup>3</sup> Notice of

<sup>1</sup>The mailed appeal form is deemed to have been filed on the postmark date of July 27, 2007. See State Board Rule 0600-1-.04(1)(b).

<sup>2</sup>The contract did not specifically mention responsibility for payment of any personalty taxes.

<sup>3</sup>The assessment in the previous tax year (2005) was \$38,400. As explained by Mr. Beaupre, the forced assessment under appeal was determined by increasing that amount by a factor of 35%.



this assessment was mailed on or about April 20, 2006 to the correct address: i.e., 1651 Lamar Avenue, Memphis, TN 38114.<sup>4</sup> Alas, Ms. Brown did not exercise her right under Tenn. Code Ann. section 67-5-903(d) to appeal the assessment to the Shelby County Board of Equalization ("county board"), which ended its regular annual session on June 30, 2006. To boot, in August of that year, she defaulted on her contract to purchase the business – leaving Mr. and Ms. Leake in repossession of it. *Almost one year later*, they submitted this appeal to the State Board in the hope of obtaining relief from the forced assessment.<sup>5</sup>

Among the duties of the State Board are to "[r]eceive, hear, consider and act upon complaints and appeals." Tenn. Code Ann. section 67-5-1501(b)(1). However, Tenn. Code Ann. section 67-5-1412(b)(1) provides that:

The taxpayer or owner must first make complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer's or owner's assessment or change in classification as provided for in section 67-5-508.

The Tennessee General Assembly has enacted the following exception to the above jurisdictional rule:

The taxpayer shall have a right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the (State Board) shall accept such appeal from the taxpayer **up to March 1 of the year subsequent to the year in which the time for appeal to the (State Board) began to run.** [Emphasis added.]

Tenn. Code Ann. section 67-5-1412(e).

Historically, the State Board has accepted direct appeals under this "reasonable cause" statute upon sufficient proof of some circumstance beyond the taxpayer's control (e.g., disability or illness) which precluded an appearance before the local board of equalization. See Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992, Final Decision and Order, August 11, 1994). But since this appeal concerning the assessment of the subject property in tax year 2006 was filed well after March 1, 2007, the statute is clearly of no avail to Laundry Investors here. Christ the Rock Church (Shelby County, Tax Year 1993, Final Decision and Order, August 1, 1996).

Moreover, as observed in Brownsville Warehouse, LLC (Haywood County, Tax Year 2002, Initial Decision and Order, April 29, 2005), the reasonable cause amendment was not intended for the benefit of persons who purchase or otherwise acquire property *after* the deadline for appeal to the county board of equalization. By the time this particular business and the equipment therein reverted to Laundry Investors, that deadline had already passed.

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<sup>4</sup>A second assessment change notice was mailed to Nedra's Wash House on or about June 1, 2006.

<sup>5</sup>The sharply lower assessment of the subject property for tax year 2007 (\$11,850) is not in dispute.



Accordingly, the Assessor's motion to dismiss must be granted.

Order

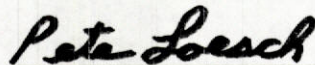
It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 3<sup>rd</sup> day of April, 2008.



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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: Michael Leake, & Carol Leake, Laundry Investors, LLC  
John Zelinka, Counsel to Shelby County Assessor of Property Rita Clark